

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

JASON CUNNINGHAM, INDIVIDUALLY AND AS
ADULT NATURAL SON AND SOLE WRONGFUL DEATH
BENEFICIARY AND NEXT OF KIN, AFFIANT AND
ADMINISTRATOR AD LITEM AND PERSONAL
REPRESENTATIVE FOR NANCY JANE LEWELLYN, DECEASED,
AND ESTATE OF NANCY JANE LEWELLYN,

Plaintiff,

VS.

Civil Action No. 2:18-cv-02185-TLP/dkv

JURY DEMANDED

SHELBY COUNTY, TENNESSEE,
AND ROBERT PASCHALL, INDIVIDUALLY AND IN
HIS OFFICIAL CAPACITY AS A SHELBY COUNTY
SHERIFF'S DEPUTY AND MARVIN WIGGINS, INDIVIDUALLY
AND AS A SHELBY COUNTY SHERIFF'S DEPUTY,

Defendants.

**PLAINTIFF'S MOTION AND SUPPORTING MEMORANDUM FOR STAY OF
PROCEEDINGS PENDING THE RESOLUTION OF PLAINTIFF'S
PETITION FOR CERTIORARI TO THE UNITED STATES SUPREME COURT**

Comes now the Plaintiff, by and through counsel of record and would file the Plaintiff's Motion to Stay Proceedings pending the resolution of Plaintiff's Petition for Certiorari to the United States Supreme Court regarding the Judgment of the United States Court of Appeals for the Sixth Circuit entered in this cause on April 19, 2021. (Judgment, ECF No. 116)

In support thereof, the Plaintiff would respectfully state the following:

1. This Honorable Court has entered an Order Setting Telephone Status Conference on June 10, 2021 in this cause. (Order, ECF No. 120)
2. The United States Court of Appeals for the Sixth Circuit has rendered a Judgment which Vacated and Remanded with instructions to grant summary judgment to Robert Paschal and Marvin Wiggins based upon qualified immunity. (Judgment, ECF No. 116)
3. Plaintiff's claims against Defendant Shelby County, Tennessee remain pending before the Honorable Court.
4. Defendant Shelby County, Tennessee's attorneys previously filed two Motions for Stay of Proceedings in this cause relating to Defendant Shelby County, Tennessee and the pending resolution of the qualified immunity issue relating to Robert Paschal and Marvin Wiggins. (Motions, ECF Nos. 31 and 62)
5. This Honorable Court previously entered a Limited Scheduling Order Granting In Part and Denying In Part Marvin Wiggins' and Robert Paschal's Motion to Stay Discovery. (Order, ECF No. 68)
6. This Honorable Court entered an Order Granting Summary Judgment as to Defendants Paschal and Wiggins Only on May 12, 2021. (Order, ECF No. 119)
7. Defendant Shelby County, Tennessee is the only remaining Defendant currently before this Honorable Court in this cause of action.
8. Plaintiff's claims against Defendant Shelby County, Tennessee are based upon a Section 1983 claim against the Defendant Shelby County, Tennessee involving an underlying constitution violation committed by Paschal and Wiggins.
9. Plaintiff has Ninety (90) days to file a Petition for Certiorari to the United States Supreme Court to seek review of the decision of the United States Court of Appeals regarding the

Judgment of April 19, 2021 pursuant to 28 U.S. Code Section 2101(c).

10. Plaintiff's counsel is currently preparing to complete and file Plaintiff's Petition for Certiorari to the United States Supreme Court on or before July 18, 2021.

11. Plaintiff respectfully this Honorable Court to Stay Proceedings until the Plaintiff's Petition for Certiorari is fully resolved by the United States Supreme Court.

12. In the Alternative, Plaintiff's counsel respectfully requests this Honorable Court to Stay Proceedings in this cause until July 18, 2021 and to reconsider the Stay of Proceedings once Plaintiff's counsel has filed notice with this Honorable Court of the filing of Plaintiff's Petition for Certiorari in the United States Supreme Court.

13. Plaintiff respectfully files this Motion in the interest of justice and said Motion will promote judicial economy in this cause.

14. Plaintiff respectfully requests any and all further relief to which Plaintiff may be entitled.

CONSULTATION

Pursuant to Local Rule 7.2(a)(1)(B), undersigned counsel has consulted with Mr. John Jones, Attorney for Defendant, regarding this Motion via email on Thursday, June 3, 2021 and counsel for Defendant Shelby County, Tennessee opposes Plaintiff's Motion for Stay and the relief requested.

Respectfully submitted,

s/Daniel A. Seward

Daniel A. Seward

Attorney for Plaintiff

Seward Law Firm

4510 Chickasaw Road

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CERTIFICATE OF SERVICE

I, Daniel A. Seward, Attorney for Plaintiff, do hereby certify that I have served a true and correct copy of the foregoing Motion for Stay on Mr. John Marshall Jones and Mr. E. Lee Whitwell, Attorneys for Defendants, via the Court's ECF system and/or email on this the 7th day of June, 2021.

s/Daniel A. Seward
Daniel A. Seward